



OPERATIONAL BULLETIN: OBO-2020-032

TITLE: COVID-19 Response - Foreign Nationals arriving from the United States who make a claim for refugee protection at airports, marine ports and between ports of entry.

Date of Issue:	Mode(s):	Target Audience:	Area of Interest:
April 21, 2020	All	All officers administering and enforcing IRPA	National

Details:

These instructions are specific to direct back authorities for foreign nationals arriving from the United States who make a claim for refugee protection at designated air and marine ports of entry and for those who enter Canada between ports of entry.

A new Order in Council (OIC) has been made pursuant to section 58 of the Quarantine Act.

This OIC has effect for the period beginning on June 21, 2021 (23:59:59) and ending on July 21, 2021 (23:59:59).

This new OIC replicates the same provisions listed in the previous OIC's in regards to who can make a claim for refugee protection.

Background

In order to enhance the authority of the Minister of Public Safety and Emergency Preparedness to respond to emergency situations that temporarily impact the border, a new provision for direct back under paragraph 41(d) of the IRPR has been enacted. This amendment enables an officer to direct back a foreign national prohibited pursuant to an emergency order or regulation made under the *Quarantine Act* or the *Emergencies Act*.

The OIC creates exceptions to the general prohibition on entering Canada for the purpose of making a claim for refugee protection. More specifically, the new OIC provides that a foreign national is prohibited from entering Canada for the purpose of making a claim for refugee protection unless the foreign national:

- seeks to enter Canada at a land and rail port of entry designated by the Minister of Public Safety and Emergency Preparedness under section 26 of the Immigration and Refugee Protection Regulations; and

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- is a person referred to in section 159.2, 159.5 or 159.6 of the Immigration and Refugee Protection Regulations; or
- is a citizen of the United States;
- seeks to enter Canada other than at a land or rail port of entry and is a person who is a citizen of the United States, a stateless habitual resident of the United States or an unaccompanied, unmarried minor without a parent or legal guardian in the US; or
- is a person whose presence in Canada is determined by the Minister of Public Safety and Emergency Preparedness or the Minister of Citizenship and Immigration to be in the national or public interest, while recognizing the paramount public health interests of Canada and Canadians.
 - More specifically, the Ministers exempt the following persons from the application of the OIC:
 - Foreign Nationals who make a claim for refugee protection at an air or marine port of entry and cannot be immediately directed back to the U.S..
 - Foreign Nationals who may be subject to the death penalty in any country.

Please refer to the notification process below for further case processing instructions.

Note: A person who enters Canada from the United States for the purpose of making a claim for refugee protection is exempt from the need to be in possession of valid COVID-19 molecular test results. For more information please refer to the following Shift Briefing.

Actions required by officers and Minister's Delegates (MDs) administering and enforcing the IRPA:

For all direct backs of foreign nationals making a claim for refugee protection at a designated POE (air or marine mode) or in-between the POEs, officers will be responsible to initiate and complete the following:

- Conduct queries in all applicable systems per existing procedures;
- Exam and Ref-Clm creation for quick intake in the Global Case Management System (GCMS);
- Collection of biometrics;
- BSF 505 – Direction to Return to USA and the officer will select "You are prohibited from entering Canada by an order or regulation made by the Governor in Council under the *Emergencies Act* or the *Quarantine Act*" on the form.

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- Update the direct back screen in GCMS selecting the option "R41(d) – Emerg/Quarant Act" ;
- Notice to Transporter (BSF 502), as applicable;
- Notification of the direct-back to the USCBP using established local procedures;
- Detailed notes in the examination tab of GCMS; notes must indicate the POE or irregular crossing of arrival. This will allow the officers responsible for the resumption of processing to understand what method of processing applies. Ports of Entry must maintain a list of all direct backs; the list should reflect the information in the Direct Back screen in GCMS and include the UCI, client's status in the U.S., name(s) and current contact information (telephone number and/or email address) for each claimant.

Exception: A direct back should not be issued to FNs who are symptomatic and who arrive from the U.S. via commercial or public conveyance (air or marine mode). Those individuals should be directed to isolate and/or referred to PHAC (depending on the severity of their symptoms and whether there are concerns about their ability to isolate themselves). This does not apply to FNs who arrive from the U.S. in a personal conveyance (i.e., would not pose a risk to other travellers) - they can be directed back to the U.S.

Foreign Nationals who are able to enter to make a refugee claim as per subsection 5(1) or 5(2) of the OIC, can enter even if they are symptomatic and will need to be referred to the PHAC Quarantine officers regardless of mode or location of entry.

Claims for refugee protection will be subject to the following intake process:

1. Determine if the foreign national is symptomatic or asymptomatic as per the following instructions:
 - COVID-19 – Enhanced Border Measures in Support of Mandatory Quarantine (asymptomatic travellers) and Isolation (symptomatic travellers) (All Modes)
2. Perform Secondary Examination
 - Determine if they meet an exemption to the OIC and are permitted to make a claim;
 - Conduct queries in all applicable systems per existing procedures;
 - Initiate Refugee Claim in GCMS;
 - Collect biometrics;
 - Conduct a Preliminary Risk Assessment in order to assess eligibility and once the eligibility assessment is made the following outcomes will occur:

Claim assessed - Low Risk Case:

- i. The processing of FNs seeking entry from the U.S. who make a claim for refugee protection and are assessed to be 'low risk' and appear to meet an exemption or exception to the STCA.
- ii. Once the acknowledgement of claim process is completed, the claimant is permitted entry for further examination to complete the refugee intake processing (BSF536).

Claim assessed - High Risk/Complex Case:

- i. Completion by CBSA at the POE or other CBSA location once the acknowledgement of claim process is completed in consideration of appropriate conditions to ensure compliance;
- ii. Arrest and/or detention (A55) considerations are to be made using the Temporary Measures to Guide Decisions to Detain and Consideration of Alternatives to Detention.

Note: POE's are responsible for the resumption of claim processing as per regional procedures/processing models. Should a claimant request processing at another CBSA location, it is the responsibility of the initial POE to coordinate the resumption of processing with the claimants preferred processing location.

Should a POE decide to complete the refugee intake process at the time of arrival, all protocols to ensure the health and safety of officers and claimants must followed.

For claims assessed to be ineligible, removal orders will come into force as follows:

- i. **101(1)(e) STCA:** immediately [U.S. Removal - Air Mode R159.4(2)];
- ii. **Other grounds of ineligibility - non-STCA:** seven (7) days;
- iii. **101(1)(c.1):** seven (7) days with an expedited PRRA within 30 days by IRCC;
- iv. **101(1)(d):** seven (7) days with an expedited risk assessment for *non-refoulement* within 30 days; and
- v. **101(1)(f) cases:** suspend eligibility before referral to Refugee Protection Division to wait the outcome of an admissibility hearing or criminal court proceeding in Canada.

Note: Foreign Nationals determined ineligible under the STCA shall be ordered removed and returned to the U.S. immediately as per ss.48(2) of *IRPA*.

Subsequent Claims

POE's should not proceed with the processing of a subsequent claim for refugee protection. All foreign nationals with a pending in Canada claim for refugee protection and subsequently seek entry into Canada prior to the border measures being lifted should be directed back to the U.S..

Post Claim Processing Procedures

Foreign Nationals who are permitted to make a claim for refugee protection in Canada while the OIC is in effect are subject to the same requirements as all other travellers as described in the OIC. Officers are required to follow the process as described at the following link:

[COVID-19 – Enhanced Border Measures in Support of Mandatory Quarantine \(asymptomatic travellers\) and Isolation \(symptomatic travellers\) \(All Modes\)](#)

Transfer to Receiving Organizations

Upon completion of port of entry processing, should an individual require transportation and/or accommodations the following departments should be contacted based on whether the individual(s) are asymptomatic or symptomatic.

Asymptomatic Travellers - Immigration, Refugees and Citizenship Canada

Geographic Area	Contact Name	Contact information (07:00 – 21:00)
Windsor & area	Cheryl Athoe	343-571-9513
Lacolle & area	Colin Charles	514-239-8402
Lethbridge & area	Jeevan Jeyanthan	204-997-7588
Winnipeg & area	Jeevan Jeyanthan	204-997-7588
Surrey & area	Marie Conlu (Jake)	236-330-1231
Niagara Falls & area	Cheryl Athoe	343-571-9513
Toronto & area	Cheryl Athoe	343-571-9513
Ottawa & area	Duty Phone	343-571-1338
Fredericton & area	Duty Phone	343-571-1338
AFTER HOURS CONTACT		
After Hours Contact 9pm - 12am EST (Daily)	IRCC on call	
All other areas, times or general inquiries	IRCC Asylum CMT	236-330-1231

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7am-9pm EST (Daily)	Mailbox
<p>IRCC is unavailable between 12am and 7am EST Please send an email to <u>Asylum CMT inbox</u> with the case details and IRCC will respond at 7am.</p>	

Note: Should transportation and/or accommodations be required, POE's are requested to contact IRCC by providing the individuals GCMS UCI as early as possible in the process.

Symptomatic Travellers - Public Health Agency of Canada

PHAC Central Notification System
1-833-615-2384
phac.cns-snc.asp@canada.ca

Notification Process

POEs are to notify CBSA Case Management of all foreign nationals who have made a claim for refugee protection including all those directed back or who qualify for an exception (STCA or under the *Quarantine Act* and the OIC). Case Management can be notified via email () with the following subject line: "COVID-19 Response – asylum claimant UCI:11-XXXX-XXXX". The email should also indicate whether the claimants current contact information (telephone number, address and/or email address) is on file for each claimant.

The above is in addition to any established regional notification processes.

Person(s) charged or convicted of an offence that is punishable by the death penalty

POEs must notify the Border Operations Centre immediately and prior to any decision or action is taken on a foreign national who has been charged with or convicted of an offence that is punishable by the death penalty, in the US or another country. The burden of proof is on the claimant to prove that they would be subject to the death penalty.

Return date for the direct back

Under general circumstances, direct backs normally include a specific date and time for the foreign national to return to the POE for further processing. For the duration of COVID-19 response, officers are required to provide the Asylum handout COVID19 to all foreign nationals seeking refugee protection who are directed back. Officers will instruct all refugee claimants directed back to refer to the CBSA website for up to date information on when they should return to Canada. It is important that refugee claimants directed back are clearly counselled that this does not mean that their refugee claim will not be heard but rather that it is only delayed until such time as

the OIC is lifted. Once the OIC has been lifted, arrangements will be made for the resumption of the refugee claim examination.

For greater clarity, these regulatory amendments do not impact any of the currently available recourse mechanisms with respect to immigration enforcement. They also do not impact individuals already granted protected person status under subsection 95(2) of the IRPA and seeking to re-enter Canada.

U.S. Interceptions and/or Returns to Canada

All persons intercepted seeking entry into the U.S. at a place other than a POE will be returned to the closest CBSA port of entry. The CBSA port of entry must accept the return of the foreign national; a case-by-case assessment by an officer should be completed and all available officer options can be considered when accepting the return of the foreign national from U.S. authorities. Once the border measures between Canada and the U.S. are lifted, the individual is to be contacted by U.S. authorities and advised to return to the U.S. for further processing.

Note: Should the U.S. return a foreign national who subsequently makes a claim for refugee protection, the STCA ineligible provision would be applicable. Should the claim be deemed ineligible on the basis of the STCA and upon completion of the refugee processing, the foreign national should be removed to the U.S..

Under any circumstances, should the U.S. not agree to accept the return of the foreign national, Case Management should be notified via email () with the following subject line: "COVID-19 Response – asylum claimant UCI:11-XXXX-XXXX". Details as to why the U.S. will not accept the return of the individual should be provided.

Additional Information:

- Arrest and/or detention (A55) considerations are to be made using the Temporary Measures to Guide Decisions to Detain and Consideration of Alternatives to Detention
- For further instructions on symptomatic or asymptomatic foreign nationals, please refer to the shift briefing Restricting the non-essential travel to Canada of U.S. citizens and other foreign nationals arriving from the United States by land, rail, ferry and maritime
- Contact information for Public Health Agency of Canada Quarantine Operations Centres can be found in Appendix B (Quarantine Operations Centres) of Enforcement Manual 4 (Port of Entry Examination).
- Additional guidance on liaising with the Public Health Agency of Canada is found in the People Processing Manual, Part 8, Chapter 5.2
- Additional guidance on POE processing can be found in ENF4 manual
- Additional guidance on writing A44(1) reports and Minister's Delegate review under A44(2) can be found in ENF5 and ENF6 manual, respectively.
- Operational Bulletin: PRG-2015-34 - Transportation of Non-detained Persons

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in Agency Vehicles while Administering CBSA Program Legislation

Regional Management:

Regional supervisors and managers will ensure that the above instructions are implemented immediately, and will be responsible for regional best practices and for conducting quality assurance.

Contact Information:

Any questions regarding this bulletin should be directed to the following email address:

Border Services Officers: If you have any questions, please forward them through the regional Corporate and Program Services Divisions, which (if required) will then send an email to the Traveller Operations Division's generic inbox:

Approved by:

John Ommeney, Director General
Travellers Branch

Christian Lorenz, Director General
Intelligence and Enforcement Branch

Effective Date: Immediately	Updated: 2021-06-30
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Additional bulletins:



The Canada Border Services Agency cannot process your application for refugee status as a result of Order-in-Council "*Minimizing the Risk of Exposure to COVID-19 in Canada Order (Prohibition of Entry into Canada from the United States)*".

The deferral of refugee claim submissions has been extended until 21 July 2021.

Only refugee claims at designated land/rail ports of entry who are found eligible under the Safe Third Country Agreement will be permitted to enter Canada. Upon entry to Canada, you will be required to undertake all quarantine or self-isolation procedures as directed by a screening or quarantine officer.

Once the border measures are lifted, you will be allowed to return in order resume your request for asylum in Canada.

Please check the following websites for updates and additional information: <https://www.cbsa-asfc.gc.ca/refugee-asile-covid-eng.html> and <https://www.canada.ca/en/immigration-refugees-citizenship/services/coronavirus-covid19/refugees.html#claimants> .

L'Agence des services frontaliers du Canada ne peut pas recevoir votre demande de statut de réfugié en raison d'un décret « *Décret visant la réduction du risque d'exposition à la COVID-19 au Canada (interdiction d'entrée au Canada en provenance des États-Unis)* ».

Le report de la présentation des demandes d'asile a été prolongé jusqu'au 21 juillet 2021.

Seules les demandes d'asile présentées à des points d'entrée terrestres/ferroviaires désignés et jugées recevables en vertu de l'Entente sur les tiers pays sûrs seront autorisées à entrer au Canada. À votre entrée au Canada, vous devrez entreprendre toutes les procédures de quarantaine ou d'auto-isolement selon les directives d'un agent de contrôle ou de quarantaine.

Une fois que les mesures à la frontière seront levées, vous serez autorisés à retourner au Canada pour poursuivre le processus de votre demande d'asile.

Veuillez vérifier le site Web suivant pour toutes mises à jour et informations supplémentaires : <https://www.cbsa-asfc.gc.ca/refugee-asile-covid-fra.html> et <https://www.canada.ca/fr/immigration-refugies-citoyennete/services/coronavirus-covid19/refugies.html>.



OPERATIONAL BULLETIN: OBO-2020-033

TITLE: COVID-19 Response - Processing claims for refugee protection at a designated land or rail port of entry

Date of Issue:	Mode(s):	Target Audience:	Area of Interest:
April 21, 2020	Land and Rail	All officers administering and enforcing IRPA	National

Details:

These instructions are specific to foreign nationals who make a claim for refugee protection at a designated land or rail port of entry (POE). The Agreement between the Government of Canada and the Government of the United States of America for Cooperation in the Examination of Refugee Status Claims from Nationals of Third Countries [known as the Safe Third Country Agreement (STCA)] continues to apply at land and rail POEs for foreign nationals seeking entry to make claim for refugee protection in Canada. This is true whether the foreign national is asymptomatic or symptomatic for COVID-19.

Note: Foreign nationals who seek entry to Canada by land at a place other than an official port of entry, by air, or marine modes, generally remain prohibited. For further guidance and processing instructions for arrivals in these 3 modes please refer to Operational Bulletin: COVID-19 Response - Foreign Nationals arriving from the United States who make a claim for refugee protection at airports, marine ports and between ports of entry.

Background

A new Order in Council (OIC) has been made pursuant to section 58 of the Quarantine Act.

This OIC has effect for the period beginning on June 21, 2021 (23:59:59) and ending on July 21, 2021 (23:59:59).

This new OIC replicates the same provisions listed in the previous OIC's in regards to who can make a claim for refugee protection.

The OIC creates exceptions to the general prohibition on entering Canada for the purpose of making a claim for refugee protection. More specifically, the new OIC provides that a foreign national is prohibited from entering Canada for the purpose of making a claim for refugee protection unless the foreign national:

- seeks to enter Canada at a land and rail port of entry designated by the Minister of Public Safety and Emergency Preparedness under section 26 of the Immigration and Refugee Protection Regulations; and
 - is a person referred to in section 159.2, 159.5 or 159.6 of the Immigration and Refugee Protection Regulations; or
 - is a citizen of the United States;
- seeks to enter Canada other than at a land or rail port of entry and is a person who is a citizen of the United States, a stateless habitual resident of the United States or an unaccompanied, unmarried minor without a parent or legal guardian in the US; or
 - is a person whose presence in Canada is determined by the Minister of Public Safety and Emergency Preparedness or the Minister of Citizenship and Immigration to be in the national or public interest, while recognizing the paramount public health interests of Canada and Canadians. (***Not currently applicable at Land and Rail Ports of Entry***)

Note: A person who enters Canada from the United States for the purpose of making a claim for refugee protection is exempt from the need to be in possession of valid COVID-19 molecular test results. For more information please refer to the following Shift Briefing.

Actions required by officers and Minister's Delegates (MDs) administering and enforcing the IRPA

Claims for refugee protection will be subject to the following intake process:

1. Determine if the foreign national is symptomatic or asymptomatic as per the following instructions:
 - COVID-19 – Enhanced Border Measures in Support of Mandatory Quarantine (asymptomatic travellers) and Isolation (symptomatic travellers) (All Modes)
2. Perform Secondary Examination
 - Determine if they meet an exemption to the OIC and are permitted to make a claim;
 - Conduct queries in all applicable systems per existing procedures;
 - Initiate Refugee Claim in GCMS;
 - Collect biometrics;

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- Conduct a Preliminary Risk Assessment in order to assess eligibility and once the eligibility assessment is made the following outcomes will occur:

Claim assessed - Low Risk Case:

- i. The processing of FNs seeking entry from the U.S. who make a claim for refugee protection and are assessed to be 'low risk' and appear to meet an exemption or exception to the STCA.
- ii. Once the acknowledgement of claim process is completed, the claimant is permitted entry for further examination to complete the refugee intake processing (BSF536).

Claim assessed - High Risk/Complex Case:

- i. Completion by CBSA at the POE or other CBSA location once the acknowledgement of claim process is completed in consideration of appropriate conditions to ensure compliance;
- ii. Arrest and/or detention (A55) considerations are to be made using the Temporary Measures to Guide Decisions to Detain and Consideration of Alternatives to Detention.

Note: POE's are responsible for the resumption of claim processing as per regional procedures/processing models. Should a claimant request processing at another CBSA location, it is the responsibility of the initial POE to coordinate the resumption of processing with the claimants preferred processing location.

Should a POE decide to complete the refugee intake process at the time of arrival, all protocols to ensure the health and safety of officers and claimants must followed.

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- i. **101(1)(e) STCA:** immediately;
- ii. **Other grounds of ineligibility - non-STCA:** seven (7) days;
- iii. **101(1)(c.1):** seven (7) days with an expedited PRRA within 30 days by IRCC;
- iv. **101(1)(d):** seven (7) days with an expedited risk assessment for *non-refoulement* within 30 days; and
- v. **101(1)(f) cases:** suspend eligibility before referral to Refugee Protection Division to wait the outcome of an admissibility hearing or criminal court proceeding in Canada.

Note: Foreign Nationals determined ineligible under the STCA shall be ordered removed and returned to the U.S. immediately as per ss.48(2) of IRPA.

Subsequent Claims

POE's should not proceed with the processing of a subsequent claim for refugee protection. All foreign nationals with a pending in Canada claim for refugee protection and subsequently seek entry into Canada prior to the border measures being lifted should be directed back to the U.S..

Post Claim Processing Procedures

Foreign Nationals who are permitted to make a claim for refugee protection in Canada while the OIC is in effect are subject to the same requirements as all other travellers as described in the OIC. Officers are required to follow the process as described at the following link:

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Transfer to Receiving Organizations

Upon completion of port of entry processing, should an individual require transportation and/or accommodations the following departments should be contacted based on whether the individual(s) are asymptomatic or symptomatic.

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Geographic Area	Contact Name	Contact information (07:00 – 21:00)
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Lacolle & area	Colin Charles	514-239-8402
Lethbridge & area	Jeevan Jeyanthan	204-997-7588
Winnipeg & area	Jeevan Jeyanthan	204-997-7588
Surrey & area	Marie Conlu (Jake)	236-330-1231
Niagara Falls & area	Cheryl Athoe	343-571-9513
Toronto & area	Cheryl Athoe	343-571-9513
Ottawa & area	Duty Phone	343-571-1338
Fredericton & area	Duty Phone	343-571-1338
AFTER HOURS CONTACT		
After Hours Contact 9pm - 12am EST (Daily)	IRCC on call	236-330-1231

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All other areas, times or general inquiries 7am-9pm EST (Daily)	<u>IRCC Asylum CMT</u> <u>Mailbox</u>	
<p>IRCC is unavailable between 12am and 7am EST Please send an email to <u>Asylum CMT inbox</u> with the case details and IRCC will respond at 7am.</p>		

Note: Should transportation and/or accommodations be required, POE's are requested to contact IRCC by providing the individuals GCMS UCI as early as possible in the process.

Symptomatic Travellers - Public Health Agency of Canada

PHAC Central Notification System
1-833-615-2384
phac.cns-snc.aspc@canada.ca

Notification Process

POEs are to notify CBSA Case Management of all foreign nationals who have made a claim for refugee protection including all those directed back or who qualify for an exception (STCA or under the *Quarantine Act* and the OIC). Case Management can be notified via email () with the following subject line: "COVID-19 Response – asylum claimant UCI:11-XXXX-XXXX". The email should also indicate whether the claimants current contact information (telephone number, address and/or email address) is on file for each claimant.

The above is in addition to any established regional notification processes.

Person(s) charged or convicted of an offence that is punishable by the death penalty

POEs must notify the Border Operations Centre immediately and prior to any decision or action is taken on a foreign national who has been charged with or convicted of an offence that is punishable by the death penalty, in the US or another country. The burden of proof is on the claimant to prove that they would be subject to the death penalty.

U.S. Interceptions and/or Returns to Canada

All persons intercepted seeking entry into the U.S. at a place other than a POE will be returned to the closest CBSA port of entry. The CBSA port of entry must accept the return of the foreign national; a case-by-case assessment by an officer should be completed and all available officer options can be considered when accepting the return of the foreign national from U.S. authorities. Once the border measures

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between Canada and the U.S. are lifted, the individual is to be contacted by U.S. authorities and advised to return to the U.S for further processing.

Note: Should the U.S. return a foreign national who subsequently makes a claim for refugee protection, the STCA ineligible provision would be applicable. Should the claim be deemed ineligible on the basis of the STCA and upon completion of the refugee processing, the foreign national should be removed to the U.S..

Under any circumstances, should the U.S. not agree to accept the return of the foreign national, Case Management should be notified via email () with the following subject line: "COVID-19 Response – asylum claimant UCI:11-XXXX-XXXX". Details as to why the U.S. will not accept the return of the individual should be provided.

Regional management

Regional supervisors and managers will ensure that the above instructions are implemented immediately, and will be responsible for regional best practices and for conducting quality assurance.

Resources:

For additional instructions on assessing asymptomatic and symptomatic travellers, and/or cases where no exemptions to the prohibition apply, please refer to OBO-2020-021 Regulatory Amendments to Implement Travel Prohibitions in Response to the COVID-19 Pandemic and/or shift briefing bulletin 2020-HQ-AC-03-25-B COVID-19 – Enhanced Border Measures in Support of Mandatory Quarantine (asymptomatic travellers) and Isolation (symptomatic travellers) (All Modes)

Contact Information:

Any questions regarding this bulletin should be directed to the following email address:

Border Services Officers: If you have any questions, please forward them through the regional Corporate and Program Services Divisions, which (if required) will then send an email to the Traveller Operations Division's generic inbox:

Approved by:

John Ommanneney, Director General

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Travellers Branch

**Christian Lorenz, Director General
Intelligence and Enforcement Branch**

Effective Date: Immediately

Updated: 2021-06-30

Additional bulletins: